

MATTER OF NAJAR

In Deportation Proceedings

A-8953550

A-8953551

*Decided by Board July 23, 1971*

Respondents, natives and citizens of Mexico exempt from the labor certification requirements of section 212(a)(14) of the Immigration and Nationality Act, as amended, as the parents of U.S. citizen children, are not, by reason of nonavailability of special immigrant visas under the Western Hemisphere annual limitation and the need to wait some 14 months for the assignment of numbers, "ineligible to obtain" special immigrant visas within the meaning of section 244(f)(3) of the Act so as to qualify for suspension of deportation.

CHARGE:

Order: Act of 1952—Section 241(a)(2) [8 U.S.C. 1251(a)(2)]—Entry without inspection (both aliens).

ON BEHALF OF RESPONDENT: Pro se

The respondents are husband and wife. The male respondent is 60 years of age and the female respondent is 49 years of age. Both are aliens and natives and citizens of Mexico. Both of them last entered the United States at San Ysidro, California on or about May 10, 1956 without having been inspected by an immigration officer. In a decision of a special inquiry officer, dated December 23, 1970, both respondents were found deportable as charged in each order to show cause, their applications for suspension of deportation pursuant to section 244(a)(1) of the Immigration and Nationality Act were denied, but they were granted the privilege of voluntary departure, with an alternate order that if they failed to depart from the United States within two months, they shall be deported to Mexico. The special inquiry officer has certified this matter to the Board of Immigration Appeals for final decision.

Deportability having been conceded, the only issue remaining was whether suspension of deportation was properly denied. The